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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/922,412

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Robert W. Cantwell

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GARDERE WYNNE SEWELL LLP  
INTELLECTUAL PROPERTY SECTION  
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EXAMINER

ROBERTS, BRIAN S

ART UNIT

PAPER NUMBER

2466

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/922,412	CANTWELL, ROBERT W.	
	<b>Examiner</b>	<b>Art Unit</b>	
	BRIAN ROBERTS	2466	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,5-9,11-17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-9,11-17 and 19-22 is/are rejected.
- 7) ☒ Claim(s) 1 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

- Claims 1, 5-9, 11-17, and 19-22 remain pending.

### ***Claim Objections***

Claims 1, 5-8, 13-16, and 21-22 are objected to because of the following informalities:

- Claim 1 line 9-10 "identifiers from the plurality of Ethernet ports into" should read --identifiers into--
- Claim 5 line 3 "the serial" should read --the single serial--
- Claim 5 line 4 "the Ethernet" should read --the demultiplexed Ethernet--
- Claim 6 line 6-7 "identifiers from the plurality of Ethernet ports into" should read --identifiers into--
- Claim 7 line 15 "receive a second" should read --receive the second--
- Claim 7 line 18 "on a port" should read --on the port--
- Claim 7 line 18-19 "in the data frame" should read --in each of the demultiplexed data frames--
- Claim 8 line 5 "of data" should read --of each data--
- Claim 13 line 2 "the single serial data stream" should read --the single data stream--
- Claim 14 line 2 and 3 "the single serial data stream" should read --the single data stream--
- Claim 15 line 5 "into another single" should read --into a single--

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- Claim 16 line 2 "the single serial data stream" should read --the single data stream--
- Claim 21 line 17 "the plurality of ports" should read --the first plurality of ports--
- Claim 22 line 2 "node transmission" should read --node for transmission--

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-9, 11-17, and 19-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In reference to claim 6

Claim 6 recites the limitation "the data" in lines 8. There is insufficient antecedent basis for this limitation in the claim. For the purpose of examination, the examiner assumes "the data" should read --the data frame containing the port identifiers--.

- In reference to claim 7

Claim 7 recites the limitation "the data frames from the second plurality of ports" in lines 7-8. There is insufficient antecedent basis for this limitation in the claim. The Examiner recommends changing "the data frames from the second plurality of ports" to

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--data frames containing the port identifiers-- and similarly for the limitation "the data frames from the second plurality of ports" in line 9.

Claim 7 recites the limitation "the predefined field" in line 12. There is insufficient antecedent basis for this limitation in the claim. For the purpose of examination, the examiner assumes "the predefined field" should read --a predefined field--.

- In reference to claim 8

Claim 8 recites the limitation "the data frames from the second plurality of ports" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim. The Examiner recommends changing "the data frames from the second plurality of ports" to --data frames containing the unique port identifiers-- and similarly for the limitation "the data frames from the second plurality of ports" in line 8.

- In reference to claim 9, 11, 12, 17, 19, 21-22

In claim 9, line 7, for the phrase "the data frames" it is unclear whether the data frames data frames contain the unique port identifiers. To clarify this ambiguity, the Examiner recommends changing "the data frames from the plurality of Ethernet ports into" to --the data frames containing unique the port identifiers--. Similar problems exist for claim 11 line 2; claim 12 line 6; claim 17 line 8; claim 19 line 8; claim 21 line 8; and claim 22, line 8.

- In reference to claim 14

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Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting an essential step, such omission amounting to a gap between the steps. See MPEP § 2172.01. The first node must transmit the single data stream before the second node may receive the signal data stream. Therefore, the omitted step is: the first node transmitting the single data stream.

- In reference to claim 15

Claim 15 recites the limitation "the data" in line 4-5 and "the first plurality of Ethernet ports" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting an essential step, such omission amounting to a gap between the steps. See MPEP § 2172.01. The second node must transmit the single serial data stream before the first node may receive the signal serial data stream. Therefore, the omitted step is: the second node transmitting the single serial data stream.

- In reference to claim 16

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting an essential step, such omission amounting to a gap between the steps. See MPEP § 2172.01. The first node must transmit the single data stream before the second node may receive the signal data stream. Therefore, the omitted step is: the first node transmitting the single data stream.

- In reference to claim 20

It is unclear how the steps of claims 17 and 20 relate. Claim 17 appears to refer to steps that are performed at the transmission side of a system, whereas claim 20 appears to refer to steps performed at a reception side of a network. Applicant should clarify where each of the steps are performed.

- In reference to claim 21

Claim 21 recites the limitation "the data frames" in line 12, 14-16. It is unclear whether the antecedent basis for these limitations is the "data frames" of line 3 or line 11.

Claim 21 recites the limitation "the data" in line 13. There is insufficient antecedent basis for this limitation in the claim.

The limitation "receiving at the first node the data frames from the first node" in line 15 renders the claim unclear and confusing because the method lacks a previous step of the first node transmitting data frames.

- In reference to claim 22

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting an essential step, such omission amounting to a gap between the steps. See MPEP § 2172.01. The first node must transmit the optical signal, the second node must receive the optical signal, and the second node must demultiplex the

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optical signal to produce the data frames containing the unique port identifiers before routing each data frame to a destination node as recited in line 12-13. Therefore, the omitted steps are: The first node transmitting the optical signal, the second node receiving the optical signal, and the second node demultiplexing into data frames containing the unique port identifiers.

- In reference to claim 13

Claim 13 is rejected as being dependent on a rejected base claim.

### ***Allowable Subject Matter***

Claims 1 and 5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 6-9, 11-17, and 19-22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

### ***Response to Arguments***

Applicant's arguments with respect to the rejection of independent claim 9 under 35 U.S.C 103(a) as being unpatentable over Hurren et al (US 6788681) in view of Arslan et al. (US 6707789) have been fully considered and are persuasive.



***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **BRIAN ROBERTS** whose telephone number is (571)272-3095. The examiner can normally be reached on M-F 10:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **DANIEL RYMAN** can be reached on (571) 272-3152. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BSR

05/17/2010

/Daniel J. Ryman/

Supervisory Patent Examiner, Art Unit 2466